

MEMO ENDORSED
P.2

MICHAEL A. CARDOZO
Corporation Counsel

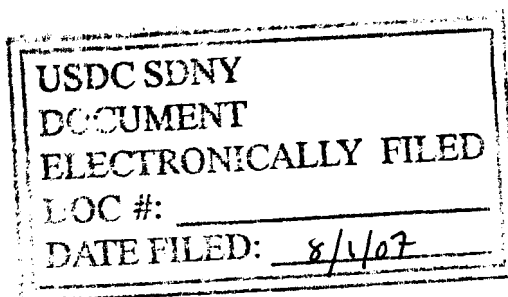
**THE CITY OF NEW YORK
LAW DEPARTMENT**
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July 31, 2007

BY HAND

Honorable Richard M. Berman
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street, Room 650
New York, NY 10007



Re: Schmi Caballero v. City of New York, et al.
07-CV-6357 (RMB)(DFE)

Your Honor:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, assigned to the defense of the above-referenced federal civil rights lawsuit. I respectfully write to request a sixty-day enlargement of time for defendant City of New York to answer or otherwise respond to the complaint from August 1, 2007, to October 1, 2007. Defendants further respectfully request that the Court adjourn the initial pre-trial conference presently scheduled for Tuesday, August 28, 2007, at 9:30 a.m. Plaintiff's counsel, Joel Berger, Esq., consents to these requests.

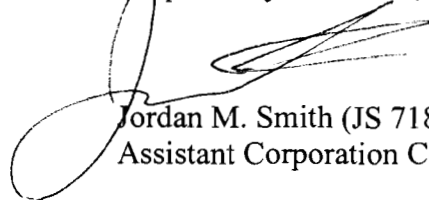
There are several reasons for seeking an enlargement of time. In accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. In this case, plaintiff alleges he was assaulted with a broomstick by another inmate in the George Motchan Detention Center, a New York City Department of Correction facility on Rikers Island, on September 25, 2006. He claims this inmate-on-inmate assault was actually instigated by a New York City correction officer. Plaintiff alleges he suffered a broken nose requiring subsequent surgery and other injuries. Plaintiff further alleges that he filed complaints with the New York City Department of Investigation and New York City Board of Correction. The requested extension of time to answer will allow defendants to obtain records of these complaints and their subsequent investigations, if any. This office is also providing the plaintiff's counsel with medical authorizations to be executed by plaintiff in order that we may assess the extent of his alleged physical injuries.

According to the Court's docket sheet, plaintiff has served the individual defendant, Correction Officer Rosemary Congress. Without formally appearing for her or waiving any jurisdictional defenses she may be able to assert, it is respectfully requested that her time to answer be extended from August 7, 2007, to October 1, 2007. We anticipate that CO Congress has, or soon will, request representation in this matter by the Office of the Corporation Counsel. Accordingly, an extension of time to answer will allow us to complete the process set forth in Section 50-k of the New York General Municipal Law to determine whether we may represent the individual defendant. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous requests for an enlargement of time to respond to the complaint or for an adjournment of the initial conference have been made. Accordingly, it is respectfully requested that defendant City's time to answer or otherwise respond to the complaint be enlarged from August 1, 2007, to October 1, 2007, and that defendant Congress' date to answer the complaint be extended from August 7, 2007, to October 1, 2007. It is further respectfully requested that the initial conference scheduled for August 28, 2007, be adjourned to a date after defendants serve their answer to the complaint.

Thank you for your consideration of these requests.

Respectfully submitted,



Jordan M. Smith (JS 7186)
Assistant Corporation Counsel

cc: Joel Berger, Esq. (by fax)

<p>ON CONSENT, TIME TO ANSWER IS EXTENDED TO 10/1/07. THE RULE 16 CONFERENCE IS ADJOURNED UNTIL 10/9/07 AT 12:00 P.M.</p>	
<p>SO ORDERED: Date: <u>7/31/07</u> <u>Richard M. Berman</u> Richard M. Berman, U.S.D.J.</p>	